

## REMARKS

Reconsideration and allowance in view of the foregoing amendments and the following remarks are respectfully requested.

Upon entry of this Amendment, claims 1-41 and 43-46 will be pending in the present application.

### *I. Rejection of the Claims Based on the Cited References*

Claims 1-6, 11-16, 21-25, 30-35, 40, and 41 stand rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 5,771,886 Maire et al. ("the '886 patent"). Claims 7, 17, 26, and 36 stand rejected under 35 U.S.C. § 103 as being unpatentable over the '886 patent. Claims 8, 18, 27, and 37 stand rejected under 35 U.S.C. § 103 as being unpatentable over the '886 patent. And, claims 9, 10, 19, 20, 28, 29, 38, and 39 stand rejected under 35 U.S.C. § 103 as being unpatentable over the '886 patent in view of U.S. Patent No. 5,502,878 to Anscher ("the '878 patent").

The '886 patent discloses a respiratory protection apparatus having a rigid connecting block 13 supporting a mask 8. The breathing apparatus further includes two straps 16 having an inner tube connected to a regulator 12. The regulator has a pair of levers 18 that operate to permit pressurized air to enter the straps 16 or to vent the straps to the atmosphere when released thus permitting the user to quickly don and remove the mask. The examiner makes particular reference to the earpiece 22. As described in the specification of the '886 patent, the earpiece 22 may be connected via a ball-and-socket connection onto a slider 40 apt to be moved along the rod 42 which is rotatably connected to a rivet 32 fixed to a cord 20.

While it is true that the earpiece of the '886 patent is connected via a ball-and-socket connection, this patent does not anticipate, or render obvious, the present invention. The ball-and-socket connection is between an earpiece 22 and a slider 40. Nowhere in this reference is there any disclosure that it would be desirable to utilize a ball-and-socket connection between the headgear and the shell (or connecting block). If anything the '886 patent teaches away from the present invention. The '886 patent describes connecting the straps to the regulator which is

in fluid communication with flexible feed hose 14. This reference does not disclose connectors between the straps and the connecting block.

The present invention is also not rendered obvious in light of the teachings of the '886 patent. It is well settled that obviousness cannot be established if the proposed modification to the reference renders it useless for its intended purpose. *Ex parte Westphalen*, 159 U.S.P.Q. 507, 508 (Bd. App. 1967); *see also, Ex parte Hartmann*, 186 U.S.P.Q. 366, 367 (Bd. App. 1974). In the '886 patent, the straps 16 utilize the connecting block 13 to permit fluid communication between the straps 16 and the flexible feed hose 14. Interjecting a ball-and-socket connector between the straps and the connecting block, as described in the present patent application, would prevent fluid communication between the straps 16 and the flexible hose 14 thus preventing the user from quickly donning the mask. Applying the teachings of the '886 patent with respect to the earpiece to the straps would render the device disclosed in the '886 patent inoperable for its intended purpose.

Independent claims 1, 11, 21, and 31 have been amended to clarify that the first connector and the second connector are configured such that they interact to "realeasably interconnect the shell with the headgear." In the present office action, the examiner took notice that reversal of the male and female connectors would be obvious and that having a cone-shaped shaft would be obvious. The examiner further asserted that the '878 patent discloses a second connector having an elongate portion with an opening adapted to receive a headgear strap. However, neither the examiner's notices nor the teachings of the '878 patent supplement the deficiencies in the '886 patent.

For the reasons presented above, applicant respectfully submits that independent claims 1, 11, 21, and 31 are not anticipated or rendered obvious by the cited references. In addition, claims 2-10, 12-20, 22-30, and 32-41 and 42-46 are also not anticipated or rendered obvious due to their dependency from independent claims 1, 11, 21, or 31. Accordingly, applicant respectfully requests that the above rejection of claims 1-41 and 43-46 be withdrawn.

All objections and rejections have been addressed. It is respectfully submitted that the present application is in condition for allowance and a Notice to the effect is earnestly solicited.

Respectfully submitted,

By 

Timothy A. Nathan  
Reg. No.: 44,256  
Tel. No.: (724) 387-4435  
Fax No.: (724) 387-5021

RESPIRONICS, INC.  
1010 Murry Ridge Lane  
Murrysville, PA 15668-8525